

REMARKS

Claims 16-35 were previously pending in the application. By the Amendment, the title of the invention and claim 33 are currently amended, new claim 36 has been added, and claims 16-32, 34 and 35 remain unchanged. No new matter is being added. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

The claims stand rejected on formal grounds and under the cited prior art of record. Specifically, claims 16-32 were rejected under 35 U.S.C. §112, second paragraph. Additionally, claims 16-18, 25, 28, 31-33 and 35 were rejected under 35 U.S.C. §102(b) as being anticipated by Park (U.S. Patent No. 5,477,915). Claims 19-24 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Park, claims 26 and 34 were rejected under 35 U.S.C. §103(a) as being unpatentable over Park in view of Cur et al. (U.S. Patent No. 5,377,498), and claims 29 and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Park in view of Maynard et al. (U.S. Patent No. 3,712,078).

Independent claim 16 defines a refrigerating appliance including at least two storage compartments thermally insulated from each other and from a surrounding area, and an evaporator, which can be cooled independently from an evaporator of at least one other storage compartment, being provided with each storage compartment. The appliance includes means for switching the mode of operation of at least one of the compartments between a freezing mode and a non-freezing mode.

Independent claim 33 defines a refrigerating appliance including at least two storage compartments thermally insulated from each other and from a surrounding area, and an evaporator that can be cooled independently from an evaporator of at least one other storage compartment. An evaporator is provided with each storage compartment, where the evaporators are connected in parallel to effect the independent cooling. Each of the storage compartments is operable in a plurality of operating modes of different temperatures. A mode switch is cooperable with the evaporator and acts to switch the mode of operation of the compartments between the operating modes.

Title of the Invention

The title of the invention has been amended as suggested by the Examiner.
Withdrawal of the objection is requested.

Rejection under 35 U.S.C. §112

The Office Action recognizes that §112 does not require an explicit or express description of the corresponding structure that will perform the recited function. Rather, it is acceptable that the application implicitly set forth such structure, which would be clear to those skilled in the art. In this context, the Office Action contends that “the only structure of which Applicant disclosed which corresponds to the means for switching claimed are switches (16 and 17).” To the contrary, the specification describes regulators 14, 15 connected to the temperature control circuit. The regulators “enable the user to set a theoretical temperature for compartment 2, 3 concerned.” The specification further provides that “[b]y setting the appropriate theoretical temperature a user may use upper compartment 2, for example, as a 0° compartment, a normal refrigerating compartment

with a typical theoretical temperature of approximately +7°C, or as a larger compartment with a typical temperature of +10°C to 12°C, whilst lower compartment 3 may, in addition, also be operated as a freezing compartment.” See paragraph [024]. As would be apparent to those of ordinary skill in the art, setting of the theoretical temperature in the noted temperature ranges effects switching the mode of operation between a freezing mode and a non-freezing mode as claimed.

The Office Action further provides that “the regulators (14, 15) cannot be considered structure which would perform the recited functions since the regulators are not provided with each disclosed embodiment,” referring to the embodiment of Fig. 5. Initially, Applicants submit that simply because the specific structure representing the regulators 14, 15 is not shown in Fig. 5 does not mean that the regulators are not present. Indeed, the description of Fig. 5 references an ability for a user to select a particular freezer configuration, which would require the regulators. The Fig. 5 embodiment is an extension of the previously-described embodiment(s) and reference/illustration of the regulators was not necessary to convey the structure of the Fig. 5 embodiment.

Additionally, even assuming that the regulators do not form part of the Fig. 5 embodiment, the lack of regulators in one of several embodiments does not render the description and/or claims indefinite under §112. Certainly there are instances where specific features defined in the claims are narrower than the broadest interpretation of described alternative embodiments.

Applicants submit that the claims satisfy the requirements of 35 U.S.C. §112, second paragraph. Withdrawal of the rejection is requested.

Prior Art Rejections

With regard to claim 16, the Office Action contends that Park discloses a refrigerating appliance including “an evaporator (54), which can be cooled independently from an evaporator (60) of at least one other storage compartment, being . . . provided with each storage compartment.” Park discloses a refrigerator including multiple compartments where one compartment can be used as a freezing compartment or a refrigeration compartment, and a second compartment can be used as a refrigeration compartment or not cooled at all. Additionally, Park describes that if the second compartment is not cooled, it can be heated for use as a food fermentation compartment. The system includes a first evaporator 50 (reference numeral ‘54’ referred to in the Office Action in fact is a second section of the first evaporator 50) and a second evaporator 60. Contrary to the claimed invention, the evaporators 50, 60 are not “cooled independently from an evaporator of at least one other storage compartment” as claimed. Rather, in no instance does any refrigerant flow through the second evaporator 60 without having first flowed through the first evaporator 50. For example, Park describes when the outlet PO1 of the second three-way valve 45A is opened, the refrigerant which passes through the first evaporator 50 flows into the second evaporator 60. See col. 4, lines 9-13. Additionally, when the first outlet PO1 of the first three-way valve 35A is closed, the refrigerant which passes through the first section 52 of the first evaporator 50 directly flows into the second evaporator 60. See col. 5, lines 34-37. See also col. 5, lines 10-13. As such, Park lacks the claimed evaporator which can be cooled independently from an evaporator of at least one other storage compartment, provided with each storage

compartment. Since the second evaporator 60 is cooled only with refrigerant passed first through the first evaporator 50, the second evaporator 60 is not cooled independently. Applicants thus submit that the rejection of independent claim 16 is misplaced.

With regard to dependent claims 17, 18, 25, 28, 31 and 32, Applicants submit that these claims are allowable at least by virtue of their dependency on an allowable independent claim and also because they recite additional patentable subject matter.

Independent claim 33 similarly defines an evaporator which can be cooled independently from an evaporator of at least one other storage compartment, being provided with each storage compartment. With reference to the discussion above, at least this subject matter is lacking in the Park patent. Additionally, claim 33 has been amended to recite that the evaporators are connected in parallel to effect the independent cooling. Support for this subject matter can be found in the specification at, for example, paragraph [022]. In Park, in contrast, since refrigerant flow to the second evaporator 60 is provided only from the first evaporator 50, the second evaporator 60 is connected in series with the first evaporator 50. The various valves described in Park enable certain sections of the first evaporator 50 to be bypassed, but in no instance does any refrigerant to the second evaporator 60 not also flow through the first evaporator 50. Applicants thus submit that the rejection of independent claim 33 is misplaced.

With regard to dependent claim 35, Applicants submit that this claim is allowable at least by virtue of its dependency on an allowable independent claim and because it recites additional patentable subject matter.

Reconsideration and withdrawal of the rejection are respectfully requested.

With regard to claims 19-24 and 27, Applicants submit that nothing in the Park patent would lead those of ordinary skill in the art to modify the Park structure to correct the shortcomings noted above with regard to independent claim 16. As such, Applicants submit that these dependent claims are allowable at least by virtue of their dependency on an allowable independent claim and also because they recite additional patentable subject matter. Withdrawal of the rejection is requested.

With regard to claims 26 and 34, Applicants submit that the Cur patent does not correct the deficiencies noted above with regard to Park, and as such, claims 26 and 34 are allowable at least by virtue of their dependency on an allowable independent claim. Withdrawal of the rejection is requested.

Finally, with regard to claims 29 and 30, Applicants submit that the Maynard patent similarly fails to correct the deficiencies noted above with regard to Park, and as such, claims 29 and 30 are allowable at least by virtue of their dependency on an allowable independent claim and also because they recite additional patentable subject matter. Withdrawal of the rejection is requested.

New Claim

Claim 36 has been added. Claim 36 is dependent on claim 16 and recites that the evaporators are connected in parallel to effect the independent cooling. See paragraph [022]. With reference to the discussion above, at least this feature is also lacking in the references of record.

CONCLUSION

In view of the above, entry of the present Amendment and allowance of Claims 16-36 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

/Andre Pallapies/

Andre Pallapies
Registration No. 62,246
February 11, 2011

BSH Home Appliances Corporation
100 Bosch Blvd.
New Bern, NC 28562
Phone: 252-672-7927
Fax: 714-845-2807
andre.pallapies@bshg.com